

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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JUAN H. GARCIA, JR.,

Plaintiff,

-against-

C.O. OFFICER MARRERO, Shield #13473,

Defendant.

**TRANSFER ORDER**  
**08 CV 3613 (SLT)(LB)**

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**BLOOM, United States Magistrate Judge:**

By letter dated October 27, 2009, the Corporation Counsel for the City of New York (“Corporation Counsel”) requests that the Court dismiss this case with prejudice pursuant to Fed. R. Civ. P. 12(f) as it is duplicative<sup>1</sup> of plaintiff’s case filed in the Southern District, Garcia v. Correction Department City of New York, et. al., No. 08 Civ. 7241 (HB). See docket entry 11. Counsel states that plaintiff’s injuries allegedly arise out of the same incident that occurred at Rikers Island and that plaintiff’s Southern District of New York case was filed prior to this case. Id. at 2. Counsel’s letter request is denied without prejudice. However, in the interests of justice and to conserve judicial resources, this action should be and hereby is transferred to the United States District Court for the Southern District of New York. 28 U.S.C. §§ 1391(b), 1406(a).

The Clerk of Court is directed to transfer this action to the United States District Court for the Southern District of New York as related to Garcia v. Correction Department City of New York, et. al., No. 08 Civ. 7241 (HB). That provision of Rule 83.1 of the Local Rules for the Eastern District of New York which requires a five-day delay in the transfer of relevant case

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<sup>1</sup> Counsel states that the allegations contained in the two complaints are identical. See docket entry 11 at 2. However, the Court notes that plaintiff’s complaint here named additional defendants, not named in the Southern District of New York suit, but that these additional defendants have been terminated. Id. at 5.

materials is waived. The Clerk of Court is directed to mark this case closed. All further decisions regarding this action are reserved for the transferee Court.<sup>2</sup>

SO ORDERED.

A handwritten signature in black ink, appearing to read "Lois Bloom", written over a horizontal line.

LOIS BLOOM

United States Magistrate Judge

Dated: November 4, 2009  
Brooklyn, New York

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<sup>2</sup> Service has not been made on defendant Marrero. See docket entry 10.